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No. 94-1641

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In the Supreme Court of the United States

OCTOBER TERM, 1994

JEANNE MANARITE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support petitioner's conviction for money laundering under 18 U.S.C. 1956(a)(3)(A) and (B).

2. Whether petitioner was entitled to a jury instruction on the defense of derivative entrapment.

3. Whether the evidence was sufficient to support petitioner's conviction for receiving stolen property, in violation of 18 U.S.C. 2315.

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OPINION BELOW

The opinion of the court of appeals (Pet. App. A1-A24) is reported at 44 F.3d 1407.

JURISDICTION

The judgment of the court of appeals was entered on January 6, 1995. A petition for rehearing was denied, and the opinion was amended, on March 15, 1995. The petition for a writ of certiorari was filed on April 6, 1995. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the District of Nevada, petitioner was convicted on two counts of money laundering (Counts 2 and 3), in violation of 18 U.S.C. 1956(a)(3)(A) and (B), and one additional count of money laundering (Count 8), in violation of 18 U.S.C. 1956(a)(1)(B)(i); one count of transporting stolen property in interstate commerce (Count 6), in violation of 18 U.S.C. 2314; one count of receiving stolen property (Count 7), in violation of 18 U.S.C. 2315; and one count of conspiring to commit those and other offenses (Count 1), in violation of 18 U.S.C. 371. Judgment at 1. She was sentenced to 46 months' imprisonment, to be followed by a three-year term of supervised release. *Id.* at 2-3. The court of appeals reversed petitioner's conspiracy conviction, affirmed her other convictions, vacated her sentence, and remanded for resentencing. Pet. App. A1-A24.

1. The FBI suspected that petitioner's husband, Samuel Manarite, was involved in criminal activity, and an FBI informant, Richard McLaughlin, "set out to 'get close'" to him. Pet. App. A3; see Gov't C.A. Br. 4. Samuel Manarite suggested to McLaughlin that they should "earn some money together." Pet. App. A3. Based on their previous conversations, McLaughlin understood that suggestion to pertain to illegal activity. Gov't C.A. Br. 4. McLaughlin said that he knew someone at a casino, and Samuel Manarite suggested that they could make as much as $500,000 by engaging in fraudulent credit transactions at casinos. *Id.* at 4-5.

Petitioner and Samuel Manarite met with McLaughlin, and later also met with an FBI agent,

William Matthews, who was posing as an employee of the Maxim Casino in Las Vegas, Nevada. Gov't C.A. Br. 4, 5. McLaughlin said that Agent Matthews knew a blackjack dealer who was skimming chips from the casino, and that they needed a way to convert the chips into cash. *Id.* at 5-6. Petitioner and Samuel Manarite suggested several ways to cash the chips, and they agreed to do so for half of the profits. *Id.* at 6.

On March 19, March 20, March 27, and April 1, 1992, McLaughlin gave petitioner a total of $13,000 in chips, which she and her family cashed at the casino. Gov't C.A. Br. 6-8. Samuel Manarite then gave McLaughlin his share of the cash. *Ibid.* McLaughlin asked Samuel Manarite whether he wanted to stop the scheme. Samuel Manarite responded that he did not, and he repeatedly pressed McLaughlin to provide more chips. *Ibid.* On April 9 and April 15, 1992, Agent Matthews met with Samuel Manarite and gave him a total of $5,050 in chips. *Id.* at 8-9. Samuel Manarite again complained at the lack of chips; he told Agent Matthews to pressure the blackjack dealer into skimming more chips. *Id.* at 9.

On April 20, Agent Matthews told Samuel Manarite that the dealer had stopped skimming chips. Gov't C.A. Br. 9. The two discussed fraudulent credit transactions and the possibility of burglarizing hotel rooms at the Maxim Casino. *Ibid.* On May 16, 1992, petitioner's son, Robert Manarite, and Robert's friend, Sandra Bonham, submitted a false credit application to the casino, borrowed $5,000 in chips, and left the casino with the chips. *Id.* at 10. Samuel Manarite cashed some of the chips, and petitioner distributed the cash proceeds. *Ibid.*

On June 2, 1992, Agent Matthews told Samuel Manarite that he (Matthews) was involved in money laundering for a drug dealer, and that the drug dealer kept large amounts of cash on a boat in Marina Del Rey, California. Gov't C.A. Br. 11. Samuel Manarite asked Agent Matthews whether he wanted him to burglarize the boat, and Matthews said it was his decision, but then said he would rather not have him take the chance of being caught. *Ibid.* The Manarites decided to burglarize the boat, and on June 9, petitioner and her son, Robert, met McLaughlin in Marina Del Rey. *Id.* at 12. McLaughlin showed them where the boat would be docked. *Ibid.* The next day, Robert Manarite went onto the boat and took $18,300 in cash and chips, and three pieces of jewelry that had been planted there by the FBI. *Ibid.* The Manarites cashed the chips from the burglary and divided the money among themselves. *Id.* at 12-13.

2. Neither petitioner nor her husband presented any evidence at trial. Gov't C.A. Br. 2. Petitioner proposed an instruction on direct entrapment, which stated that when "a person, having no previous intention to violate the law, is talked into committing a crime by government agents, she is entrapped, and the law, as a matter of policy, forbids her conviction." C.A. Supp. E.R. 58. The court found that there was no evidence that would warrant instructing the jury on that theory. Gov't C.A. Br. 3. Samuel Manarite did not request an instruction on entrapment. See Samuel Manarite C.A. Br. 17. Petitioner did not request an instruction on derivative entrapment.

3. The court of appeals reversed petitioner's conspiracy conviction, and remanded for resentencing. Pet. App. A1-A24. Count 1 of the indictment alleged that petitioner conspired to commit several offenses,

including mail fraud and wire fraud. The court held that the mail fraud and wire fraud objects were legally insufficient to constitute federal offenses. Because the jury returned a general verdict of guilty, the court reversed the conspiracy conviction, explaining that the jury might have relied on one of the legally invalid objects in finding petitioner guilty of the conspiracy. Pet. App. A5-A11.

The court affirmed petitioner's money laundering convictions on Counts 2 and 3 based on her cashing of the stolen casino chips. Pet. App. A12-A17. The court rejected petitioner's argument that she lacked the intent "to promote the carrying on of specified unlawful activity," as required by 18 U.S.C. 1956(a)(3)(A), because that intent can "*only* be found when the proceeds are 'plowed back' [reinvested] into the activity." Pet. App. A15. The court noted that "[t]he chip-skimming scheme could not benefit its participants unless the chips were cashed," and, accordingly, "[a] rational jury could conclude that the Manarites cashed the chips with the intent to promote the chip-skimming scheme." *Id.* at A16.

The court rejected petitioner's entrapment argument for the same reasons as the district court, finding that "[t]here is no evidence whatsoever that [petitioner] was the victim of government entrapment." Pet. App. A20. The court noted that "[i]f any inducement occurred, it was Samuel Manarite, not [petitioner], who was induced," but that even if Samuel persuaded petitioner to participate in the schemes, the Ninth Circuit does not recognize a defense of "derivative entrapment." *Id.* at A19. In any event, the court concluded, the evidence established that petitioner and her husband "volunteered" to commit the crime when they were given the

opportunity, and therefore they did not receive any government "inducement"—*i.e.*, the type of government conduct "that creates a substantial risk that an otherwise law-abiding person will commit a crime." *Id.* at A20.

Finally, the court rejected petitioner's claim that she could not be convicted of transporting or receiving stolen property, because the government "implicitly authorized" her "to take the government-owned property from the boat through Agent Matthews' aid and encouragement." Pet. App. A17. Recognizing that petitioner's claim "amounts to an attack on sting operations generally," the court found that "[t]he property belonged to the government and the Manarites took it and then transported and disposed of it" without the government's permission. *Id.* at A17-A18. The court indicated that petitioner's broader challenge, to the "morality of [the] sting operation[]" in this case, was in effect a restatement of her failed entrapment claim. *Id.* at A18.

ARGUMENT

1. Petitioner contends (Pet. 7-11) that this Court should grant review to resolve a conflict in the courts of appeals over the interpretation of the money laundering statute, 18 U.S.C. 1956(a)(3)(A). A violation of Section 1956(a)(3)(A) requires proof that the defendant conducted a financial transaction involving property represented by a law enforcement officer to be the proceeds of specified unlawful activity, with the intent "to promote the carrying on of [the] specified unlawful activity." Petitioner contends that the decision below, which held that a financial transaction may "promote" an unlawful activity even if its proceeds are not reinvested in the activity, conflicts with

decisions of the Seventh and Fourth Circuits. That claim does not warrant review.[1]

In *United States* v. *Jackson*, 935 F.2d 832 (7th Cir. 1991), the defendant deposited the proceeds of drug dealing into a church's bank accounts, and then used money from the accounts to buy pagers, mobile telephones, and automobiles, and to pay his rent. *Id.* at 836-837, 841. The government charged that those purchases violated 18 U.S.C. 1956(a)(1)(A)(i), which requires the defendant to engage in a financial transaction "with the intent to promote the carrying on of specified unlawful activity."[2] The court held that the purchase of the pagers "was intended to promote [the defendant's drug] activity, establishing a violation of § 1956(a)(1)(A)(i)," but that the other purchases, and the payment of rent, were intended only to "maintain[]" the defendant's comfortable "lifestyle," not his drug dealing, and therefore did not establish a money laundering violation under Section 1956(a)(1)(A)(i). 935 F.2d at 841.

As the Third Circuit recognized in *United States* v. *Paramo*, 998 F.2d 1212, 1217 (1993), cert. denied, 114 S. Ct. 1076 (1994), "*Jackson* stands for the proposition

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[1] This Court recently denied review in a case raising the identical claim, *Brown* v. *United States*, cert. denied, 115 S. Ct. 1404 (1995) (No. 94-7445).

[2] As the court below explained (Pet. App. A12 n.10), Section 1956(a)(1)(A)(i) is similar to Section 1956(a)(3)(A): "The primary difference between them is that § 1956(a)(1) requires the money involved to be 'in fact' the proceeds of unlawful activity, while § 1956(a)(3) is designed for government sting operations using money 'represented to be' the proceeds of unlawful activity, but which is, in fact, government property." In particular, as the court noted (Pet. App. A13), the two provisions have "nearly identical intent requirements."

that an intent to promote the carrying on of unlawful activity cannot be inferred from the mere fact that a defendant uses cash proceeds of such activity to pay personal expenses or purchase consumer goods." Where the financial transaction is conducted as part of the defendant's illegal scheme, however, *Jackson* does not shield the activity from prosecution. Because *Jackson* does not "suggest an intention either to delineate the universe of conduct prohibited under section 1956(a)(1)(A)(i), or to decide whether a defendant could violate that section other than by plowing back the proceeds of unlawful activity," that decision "cannot fairly be read to imply that a conviction under section 1956(a)(1)(A)(i) necessarily requires evidence that the defendant plowed back, or reinvested, criminal proceeds." *Paramo*, 998 F.2d at 1218; accord *United States* v. *Piervinanzi*, 23 F.3d 670, 682 (2d Cir.), cert. denied, 115 S. Ct. 259, 267 (1994).[3]

Petitioner derives no greater support from her reliance (Pet. 10-11) on *United States* v. *Heaps*, 39 F.3d 479 (4th Cir. 1994). *Heaps* reversed a money laundering conviction because "[t]here was no evidence that the money acquired through the payment [at issue] was itself used to promote an

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[3] As petitioner points out (Pet. 9), the court in *Jackson* stated that Section 1956(a)(1)(A)(i) is "aimed" at "the practice of plowing back proceeds of 'specified unlawful activity' to promote that activity." 935 F.2d at 842. That statement, however, was merely an attempt to contrast an obvious application of Section 1956(a)(1)(A)(i) with the scope of Section 1956(a)(1)(B)(i), which applies to financial transactions designed to "conceal" the attributes of laundered funds. The statement does not amount to a holding that a transaction can never "promote" illegal activity in the absence of "plowing back." See *Paramo*, 998 F.2d at 1218.

unlawful activity." *Id.* at 486. The court noted that "the only evidence as to what was done with the money after it was sent [to the defendant in payment for drugs] was that it was put in a box in a drawer of the defendant's house." *Ibid.* The court concluded that the statute "should not be interpreted to make any drug transaction a money laundering crime." *Ibid.* It also stated that its interpretation was "squarely consistent" with the rationale of *Jackson*, and indicated that "[t]o the extent" its decision was inconsistent with the views of the Third and Ninth Circuits, it would not apply those decisions. *Ibid.*

It is unclear whether the court in *Heaps* intended to adopt a "plowing back" theory. In any event, any disagreement among the courts of appeals on that issue is not squarely presented here. Unlike *Heaps*, this case did not involve a single transfer of funds, in which there was no proof of further transactions or intention to encourage them. 39 F.3d at 484. Rather, as noted above, petitioner engaged in a continuing fraudulent scheme. Moreover, the financial transactions in this case—cashing the chips—were not only designed to "promote" the carrying on of the illegal chip-skimming, they were integral to its success, because the chips themselves have no intrinsic value outside the casino. As the court of appeals explained (Pet. App. A16), "[t]he chip-skimming scheme could not benefit its participants unless the chips were cashed." Thus, petitioner's financial transactions were intended to promote the carrying on of the unlawful activity; *Heaps* does not suggest that the Fourth Circuit would reach a contrary result in this case.

2. Petitioner also contends (Pet. 12-16) that the district court erred in refusing to instruct the jury

on the defense of derivative entrapment, and that this Court should grant review to resolve a circuit conflict over the existence of that defense. The court below correctly rejected petitioner's claim of entrapment. No further review is warranted.

Entrapment is an affirmative defense that is implicated only when law enforcement officials "implant in the mind of an innocent person the disposition to commit the alleged offense and induce its commission in order that they may prosecute." *Sorrells* v. *United States*, 287 U.S. 435, 442 (1932). Thus, "the entrapment defense has two parts: (1) the government's 'inducement' of criminal behavior; (2) by a defendant who was not 'predisposed' to commit the crime." *United States* v. *Gendron*, 18 F.3d 955, 960 (1st Cir.) (Breyer, J.), cert. denied, 115 S. Ct. 654 (1994); see also *Jacobson* v. *United States*, 112 S. Ct. 1535, 1540 (1992); *United States* v. *Russell*, 411 U.S. 423, 435-436 (1973).

In keeping with those principles, the courts of appeals have uniformly recognized that "[t]here is no defense of private entrapment." *United States* v. *Hollingsworth*, 27 F.3d 1196, 1203 (7th Cir. 1994) (en banc); see also *Russell*, 411 U.S. at 433. Thus, the law does not "permit an innocent minded defendant to raise an entrapment claim when a *private* person 'induced' him (through * * * 'overreaching' conduct) to commit a crime * * *, however 'outrageous' the private person's conduct" may have been. *Gendron*, 18 F.3d at 962-963.[4] The vast majority of the courts of

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[4] See, *e.g.*, *United States* v. *Martinez*, 979 F.2d 1424, 1432 (10th Cir. 1992), cert. denied, 113 S. Ct. 1824, 3019 (1993); *United States* v. *Robins*, 978 F.2d 881, 884-885 (5th Cir. 1992); *United States* v. *Pilarinos*, 864 F.2d 253, 256 (2d Cir. 1988);

appeals have applied that principle in cases of so-called "derivative entrapment"—*i.e.*, when the private person who induces the defendant's commission of the crime was himself entrapped or otherwise subject to improper pressures by government agents. See, *e.g.*, *United States* v. *Martinez*, 979 F.2d 1424, 1432 (10th Cir. 1992), cert. denied, 113 S. Ct. 1824, 3019 (1993); *United States* v. *Sarmiento*, 786 F.2d 665, 667-668 (5th Cir. 1986); *United States* v. *Stewart*, 770 F.2d 825, 831 (9th Cir. 1985), cert. denied, 474 U.S. 1103 (1986); *United States* v. *Leroux*, 738 F.2d 943, 948 (8th Cir. 1984). The reason for disallowing such a defense is that if an individual is willing to break the law when persuaded to do so by a private party, he should not escape liability simply because the government may have acted improperly toward that other party. *Hollingsworth*, 27 F.3d at 1218 (Ripple, J., dissenting).

Petitioner claims (Pet. 12-16) that the lower courts are divided on the validity of "derivative entrapment" as a defense, with the Second and Seventh Circuits endorsing that defense. In the Second Circuit, a defendant is entitled to a jury instruction on that defense when the government directly transmits an inducement to him, or "consciously recruit[s]" him,

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United States v. *Bradley*, 820 F.2d 3, 7-9 (1st Cir. 1987); *United States* v. *Sarmiento*, 786 F.2d 665, 667-668 (5th Cir. 1986); *United States* v. *Stewart*, 770 F.2d 825, 831 (9th Cir. 1985), cert. denied, 474 U.S. 1103 (1986); *United States* v. *McLernon*, 746 F.2d 1098, 1109 (6th Cir. 1984); *United States* v. *Leroux*, 738 F.2d 943, 948 (8th Cir. 1984); *United States* v. *Beverly*, 723 F.2d 11, 12 (3d Cir. 1983) (per curiam); *United States* v. *Mers*, 701 F.2d 1321, 1340 (11th Cir.), cert. denied, 464 U.S. 991 (1983); *United States* v. *Dove*, 629 F.2d 325, 329 (4th Cir. 1980); *United States* v. *Burkley*, 591 F.2d 903, 911 n.15 (D.C. Cir. 1978), cert. denied, 440 U.S. 966 (1979).

through a third party. *United States* v. *Toner*, 728 F.2d 115, 127 (2d Cir. 1984); see *United States* v. *Pilarinos*, 864 F.2d 253, 256 (2d Cir. 1988). Thus, to establish the defense in the Second Circuit, a defendant generally must show that the third party is being used as a cat's paw for an investigation that is directed at the defendant himself.[5] In *Hollingsworth*, the Seventh Circuit appeared to adopt that standard, holding that "when a private individual, himself entrapped, acts as agent or conduit for governmental efforts at entrapment, the government as principal is bound." 27 F.3d at 1204.

That articulation of the "derivative entrapment" defense accords with the principle, accepted by all of the courts of appeals and by this Court, that entrapment may exist where a third party, who is not a law-enforcement officer, purposefully acts as an agent of the government in transmitting inducements to the defendant. See, *e.g.*, *Sherman* v. *United States*, 356 U.S. 369, 373-374 (1958) (defendant entrapped by

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[5] Petitioner relies (Pet. 13-14) on the Second Circuit's decision in *United States* v. *Valencia*, 645 F.2d 1158 (1980) (*Valencia I*), which appeared to endorse a broader theory of derivative entrapment. *Id.* at 1168; see *id.* at 1176-1179 (Van Graafeiland, J., dissenting from denial of rehearing en banc in *Valencia I*). Since *Valencia I*, however, the Second Circuit has substantially "retrenched" from the implications of that decision. *Hollingsworth*, 27 F.3d at 1204; see *id.* at 1218 (Ripple, J., dissenting) ("the Second Circuit's decision in [*Valencia I*] has been placed in doubt by the subsequent caselaw of that circuit"); *Pilarinos*, 864 F.2d at 256; *Toner*, 728 F.2d at 126-127; see also *United States* v. *Valencia*, 677 F.2d 191, 192 (2d Cir. 1982) (*Valencia II*).

government informant).[6] Some courts use the "derivative entrapment" rubric to describe those agency cases, see, *e.g.*, *Hollingsworth*, 27 F.3d at 1204; *Pilarinos*, 864 F.2d at 256, while other courts reject that label while still recognizing the availability of entrapment as a defense in such circumstances, see, *e.g.*, *United States* v. *Bradley*, 820 F.2d 3, 7 n.6 (1st Cir. 1987). Whatever name courts attach to the defense, however, it depends on a finding of agency between the government and the third party who communicated the inducement to the defendant.

The application of agency principles to the entrapment context has produced only one narrow disagreement among the courts of appeals. The Second and Seventh Circuits hold that an "unwitting middleman"—*i.e.*, an innocent third party who does not know of the government's focus on the defendant —may be deemed a government agent for purposes of entrapment law when the government purposefully uses the middleman to induce the defendant to commit a crime. See *Pilarinos*, 864 F.2d at 256; *Hollingsworth*, 27 F.3d at 1204. In contrast, the Fifth and Ninth Circuits have held that such a middleman generally is not a government agent. See *Sarmiento*, 786 F.2d at 667-668; *United States* v. *Emmert*, 829 F.2d 805, 808-809 (9th Cir. 1987).[7]

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[6] See also *Hollingsworth*, 27 F.3d at 1204-1205; *Robins*, 978 F.2d at 884-885; *Bradley*, 820 F.2d at 7-8; *Sarmiento*, 786 F.2d at 667-668; *McLernon*, 746 F.2d at 1109; *Mers*, 701 F.2d at 1340; *United States* v. *Garcia*, 546 F.2d 613, 615-616 (5th Cir.), cert. denied, 430 U.S. 958 (1977).

[7] Petitioner also claims (Pet. 14) that the D.C. Circuit allows the derivative defense, and she relies for that claim on *Johnson* v. *United States*, 317 F.2d 127 (1963). In *Johnson*, however, the middleman was a knowing participant in the government's

That narrow disagreement is not implicated by the facts of this case for three reasons. First, petitioner is presenting her claim of derivative entrapment for the first time in this Court. She did not request a derivative entrapment instruction in the district court; she requested only a direct entrapment instruction. See C.A. Supp. E.R. 55-59. Nor did she present her derivative entrapment claim to the court of appeals. See Pet. C.A. Br. 14-18; Pet. C.A. Rep. Br. 7-10. While the court of appeals alluded to the doctrine, it did so only to reject her direct entrapment claim—by pointing out that petitioner was brought into the crime by her husband, if by anyone. Pet. App. A19. Thus, petitioner cannot now argue that the district court erred in refusing to give a derivative entrapment instruction. See, *e.g.*, *United States* v. *Alvarez-Sanchez*, 114 S. Ct. 1599, 1605 n.5 (1994); *Berkemer* v. *McCarty*, 468 U.S. 420, 443 (1984).

Second, petitioner has not articulated a legally valid entrapment claim under the law of any circuit. Petitioner does not suggest that her husband was a government agent under ordinary agency principles (see Pet. i), and both courts below concluded that there was no evidence that petitioner was entrapped by any government agent. See Pet. App. A19-A20. Nor does petitioner assert that the government "consciously recruited" her through her husband. At

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contact with the defendant. See *id.* at 128. In *United States* v. *Mayo*, 498 F.2d 713 (1974), the D.C. Circuit cited *Johnson* for the proposition that entrapment exists where "a private citizen" acts "as an agent" of the government, and held that "where there is no showing that the agent provocateur was purposefully acting on behalf of the Government the defense does not obtain." *Id.* at 716-717.

most, she suggests that the government entrapped her husband, and that he passed on the inducement to her of his own accord. See Pet. 12. As the Second Circuit has repeatedly held, a defendant is not entitled to an entrapment instruction where a government agent entraps a middleman, "and the middleman, responding to the pressure upon him, takes it upon himself to induce" the defendant to commit a crime. *Pilarinos*, 864 F.2d at 256; see *Toner*, 728 F.2d at 127; see also *Hollingsworth*, 27 F.3d at 1204.

Third, there was no evidence of entrapment of any defendant, including petitioner's husband, in this case. The court of appeals correctly concluded that "McLaughlin's actions did not rise to the level of inducement," and that, far from being entrapped, petitioner and her husband both "volunteered" to cash the stolen chips. Pet. App. A20. Because there was no evidence to support the claim that petitioner was entrapped, whether directly or derivatively, that claim would fail under even the most generous articulation of the entrapment defense.

3. Petitioner contends (Pet. 16-18) that the property taken from the boat in Marina Del Rey was not "stolen" property under 18 U.S.C. 2315 because the government authorized the defendants to take it. As the court of appeals concluded (Pet. App A18), however, the government "did not give [petitioner] permission to take property from the * * * boat." Nor is petitioner assisted (Pet. 17) by *United States* v. *Dove*, 629 F.2d 325 (4th Cir. 1980). As the court of appeals explained, in contrast to *Dove*, "[t]here is no question in this case about whether the property taken retained its stolen character." Pet. App. A17.

Petitioner also claims that the government encouraged her to steal the property, and that there is a "dearth of law" (Pet. 18) on the question of when such encouragement precludes a conviction under Section 2315. In fact, as the court of appeals correctly held, petitioner would not be entitled to relief on her theory of governmental encouragement unless she could demonstrate entrapment, which she failed to do. See Pet. App. A18.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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